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Hearing Date and Time:

October 18, 2022 at 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 11

85 FLATBUSH RHO MEZZ LLC, *ET AL.*¹,

Case No: 20-23280-SHL

Debtors.

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**MOTION FOR AMENDED ORDER APPROVING INSURANCE
PREMIUM FINANCING AGREEMENT AND FOR RELATED RELIEF**

TO THE HONORABLE SEAN H. LANE,
UNITED STATES BANKRUPTCY JUDGE:

The debtors and debtors in possession, **85 Flatbush RHO Mezz LLC** ("Mezz"),
85 Flatbush RHO Hotel LLC ("Hotel") and **85 Flatbush RHO Residential LLC**
("Residential" and defined together with Mezz and Hotel, as the "Debtors"), seek the
issuance and entry of an amended order (the "Amended Order"), pursuant to
sections 105, 363 and 364 of title 11, United States Code (the "Bankruptcy Code"),
and Fed. R. Bankr. P. 4001(c) (the "Bankruptcy Rules"), authorizing Hotel to enter
into a new insurance premium financing agreement (the "Agreement") with First
Insurance Funding ("First Insurance"), and to grant First Insurance a security

¹The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: 85 Flatbush RHO Mezz LLC (6184); 85 Flatbush RHO Hotel LLC (5027); and 85 Flatbush RHO Residential LLC (2261).

interest in assets relating to the insurance policies to be financed pursuant to the Agreement,² and respectfully represents as follows:

1. On July 21, 2022, Hotel filed a motion seeking approval of an agreement with First Insurance for approval of an insurance premium finance agreement [ECF Doc. 289] (the “Initial Motion”). The Initial Motion was approved and the Order Authorizing Entry Into Premium Financing Agreement [ECF Doc. 314] (the “Original Order”) approving an insurance premium financing agreement was entered on August 22, 2022. Since entry of the Original Order, it was discovered that First Insurance has its own preferred form of order to approve insurance premium financing, which was not used because that fact had not been conveyed to Hotel at that time. Accordingly, First Insurance requested that the Hotel seek approval of the Amended Order which complies with the preferred form. First Insurance was provided with a copy of the Amended Order and approved its form.

2. Hotel incorporates by reference herein the factual circumstances and legal basis as was set in the Initial Motion for this motion.

3. Moreover, due to the time it has taken for the request for the Amended Order to be made from the entry of the Original Order, payments that were due under the Original Order were not processed. Accordingly, a new insurance premium agreement, as reflected by the Agreement annexed hereto, had to be prepared. This new Agreement has already been filed with the Court [ECF Doc.

²A copy of the Agreement is attached to the Motion as **Exhibit A**.

315]. The Agreement does not differ in terms except as it relates to the amount of the down payment required and the amount and term of the monthly payments.

4. While the Amended Order on its face is different from the Original Order, in substance, the relief it is approving is substantively the same as originally requested by Hotel. Accordingly, Hotel seeks approval of the Amended Order, which is attached as **Exhibit B**.

5. The secured creditor's counsel has been apprised of the situation and had an opportunity to review the Agreement and the Amended Order. The secured creditor had filed a reservation of rights with regard to the Initial Motion, which on the record of the hearing with respect thereto they confirmed was resolved. The secured creditor, through its counsel, confirmed its consent to the request for the entry of the Amended Order.

6. This motion has been served on the same parties as the Initial Motion and Hotel respectfully submits that such service is appropriate under the circumstances.

WHEREFORE, Debtors respectfully request that the Court enter the Amended Order
and grant such other and further relief as it deems just and proper.

DATED: New York, New York
September 30, 2022

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By: /s/ Robert M. Sasloff
Robert M. Sasloff